

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

OCT 5 2005

ANTHONY CARDELL HAYNES, §  
Petitioner, §  
§  
-VS- § MISCELLANEOUS NO. H-04-319  
§ Judge Sim Lake  
DOUG DRETKE, Director, Texas §  
Department of Criminal Justice, §  
Correctional Institutions Division, §  
§  
Respondent. §

H - 05 - 3424

**PETITION FOR WRIT OF HABEAS CORPUS**

**EXHIBITS IN SUPPORT OF PETITION  
VOLUME I  
EXHIBITS 1-5**

**A. RICHARD ELLIS  
Texas Bar No. 06560400**

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Mill Valley, CA 94941  
(415) 389-6771  
(415) 389-0251 (FAX)**

**Attorney for Petitioner**

**VOLUME I EXHIBITS 1-5**

<b><u>EXHIBIT</u></b>	<b><u>DOCUMENT</u></b>
1	<b>Complaint (filed May 25, 1998) (CR 2)</b>
2	<b>Indictment (filed July 22, 1998) (CR 7)</b>
3	<b>Verdict and sentence of death (Sept. 17, 24, 1999) (CR 477-478)</b>
4	<b>Petitioner's direct appeal brief: <i>Haynes v. State</i>, No. 73,685</b>
5	<b>Verdict on direct appeal: <i>Haynes v. State</i>, No. AP-73,685 (Tex. Crim. App. Oct. 10, 2001)(slip op.)(not designated for publication)</b>

**VOLUME II EXHIBITS 6-17**

<b><u>EXHIBIT</u></b>	<b><u>DOCUMENT</u></b>
6	<b>Petitioner's state habeas petition: <i>Ex Parte Anthony Cardell Haynes</i>, Cause No. 783872-A</b>
7	<b>Trial Court's Findings and Conclusions on state habeas: <i>Ex Parte Anthony Cardell Haynes</i>, Cause No. 783872-A (Aug. 5, 2004)</b>
8	<b>Order on state habeas: <i>Ex parte Anthony Cardell Haynes</i>, Np. 59,929-01 (Tex. Crim. App. Oct. 6, 2004)</b>
9	<b>Jury instructions at punishment phase of trial. 2 CR 451 <i>et. seq.</i></b>
10	<b>Autopsy report of Deputy Chief Medical Examiner Tommy J. Brown</b>
11	<b>Declaration of Patricia Davis</b>
12	<b>Declaration of Donald W. Haynes</b>
13	<b>Declaration of Eric Haynes</b>
14	<b>Declaration of Tiffany Deckard</b>
15	<b>Declaration of Earl Washington, Sr.</b>
16	<b>Declaration of Myrtle Hinton</b>

17

**Declaration of Dr. Mark Cunningham**

**VOLUME III EXHIBITS 18-72**

<b><u>EXHIBIT</u></b>	<b><u>DOCUMENT</u></b>
18	<b>Letter of Dr. Robert Geffner</b>
19	<b>Letter of Dr. Mitchell Young</b>
20	<b>MMPI-2 Report on Anthony Haynes, 8/17/99</b>
21	<b>Letter of Dr. Susana Rosin, June 28, 2005</b>
22	<b>Letter of Dr. Susana Rosin, July 13, 2005</b>
23	<b>Affidavit of Dr. Seth Silverman</b>
24	<b>School transcripts of Anthony Haynes</b>
25	<b>Neuropsychological Deficit Scale report</b>
26	<b>Report of The Rosenstock Clinic, by Dr. Harvey A. Rosenstock, April 1, 1992</b>
27	<b>Boost program academic records</b>
28	<b>Collected articles on the effects of methamphetamine</b>
29	<b>Declaration of Lawrence Hughes</b>
30	<b>Declaration of Kenneth Porter</b>
31	<b>Declaration of Lee Ester Porter</b>
32	<b>Declaration of Beverly Scott</b>
33	<b>Declaration of Debra Swisher</b>
34	<b>Declaration of Shelia Haynes</b>
35	<b>Declaration of Sgt. Allen Harris</b>

- 36 Declaration of Earl Washington, Sr.**
- 37 Declaration of Bonita Denyse Thierry**
- 38 Declaration of Leon Tousant**
- 39 Declaration of Barbara Taveras**
- 40 Declaration of Ron Royal**
- 41 Declaration of Debra Haynes**
- 42 Declaration of Richard Haynes**
- 43 Declaration of Sharon McElroy**
- 44 Declaration of Rhonda Jackson**
- 45 Declaration of Shelia Waters**
- 46 Declaration of Socorro Herda**
- 47 Letter of Renee Lewis**
- 48 Declaration of Renita Royal**
- 49 Declaration of Yolondo Gaines**
- 50 Declaration of Debbie Lucas Moerbe**
- 51 Declaration of Lawrence Aaron Tate**
- 52 Declaration of Ryan Braud**
- 53 Declaration of Cherrie McGlory**
- 54 Declaration of Ivory Jackson**
- 55 Declaration of Melvin Brock**
- 56 Declaration of Portia Rose**
- 57 Declaration of Darryl Smith**
- 58 Declaration of Bonita Padmore**

59                   **Declaration of Devlin Jackson**

60                   **Declaration of Nezdra Ward**

61                   **Declaration of Toya Terry**

62                   **Declaration of Cleophis Lewis**

63                   **Declaration of Courtney Erwin Davis**

64                   **Declaration of Angela G. Malcolm**

65                   **Declaration of Tiombe Davis**

66                   **Declaration of Larry Britt**

67                   **Motion for New Trial, 3 CR 522-538 and Affidavit of Cynthia Patterson**

68                   **Vernon's Tx. Health & S. Code §§ 821.052 and 821.055**

69                   **Lethal injection protocol in Texas, from TDCJ website "Death Row Facts"**

70                   **Affidavits re lethal injection in the case of *Texas v. Jesus Flores*, No. 877,994A**

71                   **"Critics Say Execution Drug May Hide Suffering" by Adam Liptak, New York Times, Oct. 7, 2003**

72                   **Report of the AVMA Panel on Animal Euthanasia (2000)**

*TAB*

*1*

THE STATE OF TEXAS  
VS.

ANTHONY CRAIG HAYNES  
15402 FLEMINGTON  
HOUSTON, TX 77000

SPN: 01358742  
DOB: BM 12-9-68  
DATE PREPARED: 5/25/98

D.A. LOG NUMBER: 436481  
CJIS TRACKING NO.: 9029550317-A001  
BY: LJ DA NO: 105  
AGENCY: HCSO  
O/R NO: 9805223252  
ARREST DATE: 5-22-98

NCIC CODE: 0908 45

RELATED CASES: TIMOTHY REESE

FELONY CHARGE: CAPITAL MURDER

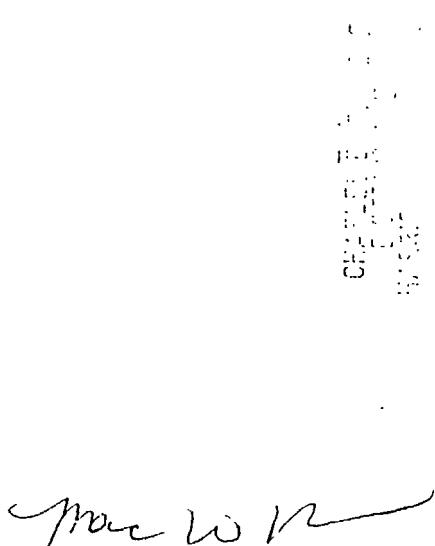
CAUSE NO: 0783872

HARRIS COUNTY DISTRICT COURT NO: 263  
FIRST SETTING DATE:

BAIL: \$NO BOND  
PRIOR CAUSE NO:

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

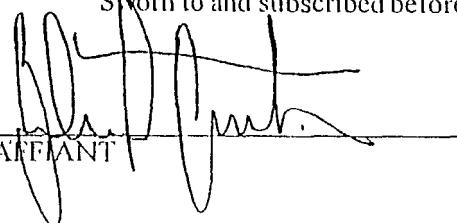
Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, ANTHONY CRAIG HAYNES, hereafter styled the Defendant, on or about MAY 22, 1998, did then and there unlawfully intentionally and knowingly cause the death of KENT KINCAID, hereafter styled the Complainant, a PEACE OFFICER in the lawful discharge of an official duty, by SHOOTING COMPLAINANT WITH A DEADLY WEAPON, NAMELY, A FIREARM, knowing at the time that the Complainant was a PEACE OFFICER.



Marc W. Wren

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Swear to and subscribed before me on May 25, 1998

  
AFFIANT

Marc W. Wren  
ASSISTANT DISTRICT ATTORNEY  
OF HARRIS COUNTY, TEXAS.

COMPLAINT

*TAB* 2

*TAB* 3

21A

41PRT

83

26

2

THE STATE OF TEXAS  
VS.IN THE COURT OF HARRISNO. 783872Anthony Cardell Haynes

Change of Venue From: \_\_\_\_\_

## JUDGMENT - DEATH PENALTY

Judge Presiding: JIM WallaceDate of Judgment: SEP 27 1999

17

Attorney for State: M. Vinson / D. SmythAttorney for Defendant: A. Numery / R. JonesOffense  
Convicted of: CAPITAL MURDERRECODER'S MEMORANDUM.  
This instrument is of poor quality  
and not satisfactory for photographic  
recording; and/or alterations were  
present at the time of filming.Degree: CAPITAL Punishment Assessed: DEATH Date Offense Committed: 5-22-98  
Charging Instrument: Indictment Plea: Not GuiltyAffirmative Findings: (Circle appropriate selection - N/A not available or not applicable)  
DEADLY WEAPON: Yes  No  N/A FAMILY VIOLENCE: Yes  No  N/A HATE CRIME: Yes  No  N/A

The Defendant having been indicted in the above entitled and numbered cause for the felony offense indicated above and this cause being this day called for trial, the State appeared by her District Attorney as named above and the Defendant named above appeared in person with Counsel as named above, and both parties announced ready for trial.

V2853 P0888

A Jury composed of Sharon S. Malazzo and eleven others was selected, impanelled, and sworn. The indictment was read to the Jury, and the Defendant entered a plea of not guilty thereto, after having heard the evidence submitted; and having been charged by the Court as to their duty to determine the guilt or innocence of the Defendant and having heard argument of counsels, the Jury retired in charge of the proper officer and returned into open Court on SEP 27 1999, 19\_\_\_\_\_, the following verdict, which was"We, the Jury, find the defendant, Anthony Cardell Haynes,  
guilty of capital murder, as charged in the indictment."

F I L E D  
CHARLES BACARISSO  
District Clerk  
SEP 17 1999  
Time: 1:05 PM  
Harris County, Texas  
1014  
By Deputy

Sharon Sefcik-Malazzo  
Foreman of the Jury  
SHARON SEFCIK-MALAZZO  
(Please Print) Foreman

Thereupon, the Jury, in accordance with law, heard further evidence in consideration

guilty of capital murder, as charged in the indictment.  
T L E D  
CHARLES BACARISS  
District Clerk  
SEP 17 1999  
Time: 4:05 PM  
Harris County, Texas  
By Deputy

Filed in TXSD on 10/05/05 Page 11 of 40

Sharon Sefcik-Malazzo  
Foreman of the Jury  
SHARON SEFCIK-MALAZZO  
(Please Print) Foreman

Thereupon, the Jury, in accordance with law, heard further evidence in consideration of punishment, and having been again charged by the Court, the jury retired in charge of the proper officer in consideration of punishment and returned into open Court on the day of SEP 24 1999, 1999, the following verdict, which was received by the Court and is here entered of record upon the minutes:  
(Special Issues/Verdict/Certification):

SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant, Anthony Cardell Haynes, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "YES."

Sharon Sefcik-Malazzo

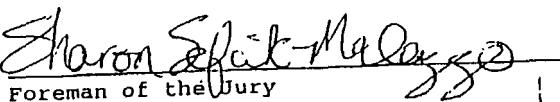
00047

SPECIAL ISSUE NO. 2

Do you find from the evidence, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, Anthony Cardell Haynes, that there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed?

ANSWER

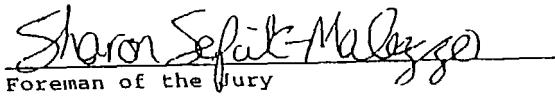
We, the jury, unanimously find that the answer to this Special Issue is "NO."

  
\_\_\_\_\_  
Sharon Sefat-Malaygo

Foreman of the Jury

VERDICT

We, the Jury, return in open court the above answers to the "Special Issues" submitted to us, and the same is our verdict in this case.

  
\_\_\_\_\_  
Sharon Sefat-Malaygo

Foreman of the Jury

It is therefore considered, ordered, and adjudged by the Court that the Defendant is guilty of the offense indicated above, a felony, as found by the verdict of the jury, and that the said Defendant committed the said offense on the date indicated above, and that he be punished as has been determined by the Jury, by death, and that Defendant be remanded to jail to await further orders of this court.

And thereupon, the said Defendant was asked by the Court whether he had anything to say why sentence should not be pronounced against him, and he answered nothing in bar thereof.

Whereupon the Court proceeded, in presence of said Defendant to pronounce sentence against him as follows, to wit, "It is the order of the Court that the Defendant named above, who has been adjudged to be guilty of the offense indicated above and whose punishment has been assessed by the verdict of the jury and the judgment of the Court at Death, shall be delivered by the Sheriff of Harris County, Texas immediately to the Director of the Institutional Division, Texas Department of Criminal Justice or any other person legally authorized to receive such convicts, and said Defendant shall be confined in said

Sharon Sefik-Maloyce  
Foreman of the Jury

It is therefore considered, ordered, and adjudged by the Court that the Defendant is guilty of the offense indicated above, a felony, as found by the verdict of the jury, and that the said Defendant committed the said offense on the date indicated above, and that he be punished as has been determined by the Jury, by death, and that Defendant be remanded to jail to await further orders of this court.

And thereupon, the said Defendant was asked by the Court whether he had anything to say why sentence should not be pronounced against him, and he answered nothing in bar thereof.

Whereupon the Court proceeded, in presence of said Defendant to pronounce sentence against him as follows, to wit, "It is the order of the Court that the Defendant named above, who has been adjudged to be guilty of the offense indicated above and whose punishment has been assessed by the verdict of the jury and the judgment of the Court at Death, shall be delivered by the Sheriff of Harris County, Texas immediately to the Director of the Institutional Division, Texas Department of Criminal Justice or any other person legally authorized to receive such convicts, and said Defendant shall be confined in said Institutional Division in accordance with the provisions of the law governing the Texas Department of Criminal Justice, Institutional Division until a date of execution of the said Defendant is imposed by this Court after receipt in this Court of mandate of affirmance from the Court of Criminal Appeals of the State of Texas.

The said Defendant is remanded to jail until said Sheriff can obey the directions of this sentence. From which sentence an appeal is taken as a matter of law to the Court of Criminal Appeals of the State of Texas.

SEP 24 1999

Signed and entered on this the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.  


JUDGE 2103 DISTRICT COURT  
Harris County, Texas

000478  
6880d. 85,82A

CRM-95 06-30-94

*TAB* 4

73685

NO. 73,685

IN THE COURT OF CRIMINAL APPEALS  
FOR THE STATE OF TEXAS  
AT AUSTIN

\* \* \*

ANTHONY CARDELL HAYNES,  
Appellant

v.

THE STATE OF TEXAS,  
Appellee

\* \* \*

FILED IN  
COURT OF CRIMINAL APPEALS

JUN 2 - 2000

Troy C. Bennett, Jr., Clerk

APPELLANT'S BRIEF

---

On Appeal in Cause No. 783,872  
from the 263rd District Court of Harris County, Texas

---

LEORA TEICHER KAHN  
Eleven Greenway Plaza,  
Suite 3010  
Houston, Texas 77046  
TEL: (713) 222-1353  
FAX: (713) 621-6933  
STATE BAR NUMBER 11073100  
ATTORNEY FOR APPELLANT  
COURT APPOINTED ON APPEAL

ORAL ARGUMENT IS REQUESTED IN THIS CAUSE

NO. 73,685

IN THE COURT OF CRIMINAL APPEALS  
FOR THE STATE OF TEXAS  
AT AUSTIN

\* \* \*

ANTHONY CARDELL HAYNES,  
Appellant

v.

THE STATE OF TEXAS,  
Appellee

\* \* \*

**APPELLANT'S BRIEF**

---

On Appeal in Cause No. 783,872  
from the 263rd District Court of Harris County, Texas

---

LEORA TEICHER KAHN  
Eleven Greenway Plaza,  
Suite 3010  
Houston, Texas 77046  
TEL: (713) 222-1353  
FAX: (713) 621-6933  
STATE BAR NUMBER 11073100  
ATTORNEY FOR APPELLANT  
COURT APPOINTED ON APPEAL

**ORAL ARGUMENT IS REQUESTED IN THIS CAUSE**

**IDENTITY OF PARTIES AND COUNSEL**

Pursuant to Tex. R. App. P. 38.1(a), the following persons are interested parties:

**Presiding Judge At Trial**

Hon. Jim Wallace  
263rd Judicial District Court  
1201 Franklin #15136  
Houston,, Texas 77002-1901

Hon. H. Lon Harper (sitting by appointment)  
c/o 263rd Judicial District Court  
1201 Franklin #15136  
Houston,, Texas 77002-1901

**Attorneys for State**

At trial:  
Mr. Mark Vinson  
Assistant District Attorney  
1201 Franklin #600  
Houston,, Tx 77002-1901

Mr. Don Smyth  
Assistant District Attorney  
1201 Franklin #600  
Houston, Tx 77002-1901

Mr. William Hawkins  
Assistant District Attorney  
1201 Franklin #600  
Houston, Tx 77002-1901

On appeal:

Mr. Calvin Hartman  
Assistant District Attorney  
1201 Franklin #600  
Houston, Tx 77002-1901

**Attorneys for Appellant**

At trial:  
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Attorney at Law  
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TBN 15141800

Mr. Robert A. Jones  
Attorney at Law  
2211 Norfolk #600  
Houston, Texas 77098  
713/526-1171  
TBN 10941500

On Appeal:

Ms. Leora Teicher Kahn  
Attorney at Law  
11 Greenway Plaza #3010  
Houston, Tx 77046  
713/222-1353  
TBN 11073100

Appellant

Anthony Cardell Haynes  
TDCJ-ID inmate -  
death row.

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